
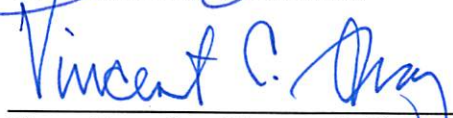


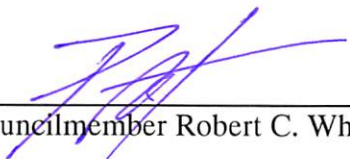
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2 Councilmember Anita Bonds

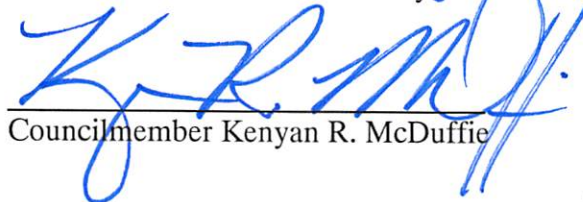
  
Councilmember Charles Allen

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6 Councilmember Jack Evans

  
Councilmember David Grosso

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9 Councilmember Vincent C. Gray

  
Councilmember Robert C. White, Jr.

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12 Councilmember Kenyan R. McDuffie

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16 A BILL

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19  
20 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

21  
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23  
24  
25 To amend the District of Columbia Health Occupations Revision Act of 1985 and Subchapter I-B  
26 of Chapter 28 of Title 47 of the District of Columbia Official Code to remove barriers to  
27 obtaining occupational licenses for individuals with criminal histories, to allow a licensing  
28 board to consider an applicant's pending criminal accusation or prior conviction only if the  
29 pending criminal accusation or prior conviction is directly related to the occupation for  
30 which the license is sought, and to provide applicants, licensees, registrants, or persons  
31 certified whose applications or licenses, registrations, or certifications are denied,  
32 suspended, or revoked based on a pending criminal accusation or conviction with notice of  
33 the basis of the decision and an opportunity to provide mitigating evidence.

34  
35 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this  
36 act may be cited as the "Removing Barriers to Occupational Licenses Amendment Act of 2017".

37 Sec. 2. The District of Columbia Health Occupations Revision Act of 1985, effective  
38 March 25, 1986 (D.C. Law 6-99, D.C. Official Code § 3-1201.01 *et seq.*), is amended as follows:

39 (a) Section 503(a)(1) (D.C. Official Code § 3-1205.03(a)(1)) is repealed.

40 (b) A new section 503a is added to read as follows:

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41           “Sec. 503a. Criminal history inquiries.

42           “(a) The board regulating the health occupation shall not inquire into the criminal history  
43 of an applicant on the application for a license under this subchapter.

44           “(b) The board regulating the health occupation shall not inquire into or consider the  
45 criminal history of an applicant until after the applicant is found to be otherwise qualified for the  
46 license under this title.

47           “(c) The board regulating the health occupation shall not at any time consider, use, or  
48 disseminate the following information in connection with an application for a license:

49                   “(1) An arrest that did not result in a conviction;

50                   “(2) A criminal accusation made against the applicant that is not then pending or  
51 did not result in a conviction;

52                   “(3) A conviction that has been dismissed through a deferred sentencing agreement  
53 or otherwise;

54                   “(4) A conviction that has been sealed, expunged, vacated, or pardoned;

55                   “(5) A juvenile adjudication; and

56                   “(6) A conviction that is not directly related to the occupation for which a license  
57 is being sought, as determined under subsection (d) of this section.

58           “(d) The board regulating the health occupation must consider the following factors to  
59 determine whether a conviction is directly related to the occupation for which the license is sought:

60                   “(1) The District’s legitimate interest in equal access to employment for individuals  
61 who have had past contact with the criminal justice system;

62                   “(2) Whether the elements of the offense or offenses are directly related to the  
63 specific duties and responsibilities of the occupation;

64                   “(3) Whether the occupation for which the license is sought offers the opportunity  
65 for the same or a similar offense to occur; and

66                   “(4) Any information produced by the applicant concerning his or her rehabilitation  
67 and fitness, including:

68                                 “(A) Evidence showing that at least one year has elapsed since release from  
69 any correctional institution without subsequent conviction for a crime;

70                                 “(B) Evidence showing compliance with all terms and conditions of  
71 probation, supervised release, and parole;

72                                 “(C) Circumstances relative to the offense, including mitigating  
73 circumstances;

74                                 “(D) Age of the applicant at the time the offense was committed;

75                                 “(E) Length of time that has elapsed since the offense was committed;

76                                 “(F) Evidence of work history, particularly any training or work experience  
77 related to the occupation in question; and

78                                 “(G) Letters of reference.

79                   “(e) After an applicant is found to be otherwise qualified for the license under this  
80 subchapter, the board regulating the health occupation may consider an applicant’s criminal  
81 history, except for the information described in subsection (c) of this section, which the board  
82 finds, pursuant to subsection (d) of this section, to be directly related to the occupation for which  
83 the license is sought.”.

84                   (c) Section 514 (D.C. Official Code § 3-1205.14) is amended as follows:

85                                 (1) Subsection (a)(4) is amended to read as follows:

86           “(4) Has a pending criminal accusation or conviction into which the board  
87 regulating the health occupation is permitted to inquire and consider pursuant to section 503a.”.

88           (2) New subsections (f), (g), (h), and (i) are added to read as follows:

89           “(f) If the board regulating the health occupation intends to deny, suspend, or revoke a  
90 license, registration, or certification, because of a criminal history, the board shall notify the  
91 applicant, licensee, registrant, or person certified in writing prior to a final decision with the  
92 following:

93           “(1) The offense that forms the basis for the potential denial, suspension, or  
94 revocation, and the rationale for deeming the offense directly related;

95           “(2) A copy of any criminal record on which the board relies;

96           “(3) A statement that the applicant, licensee, registrant, or person certified may  
97 provide evidence demonstrating inaccuracies within the applicant’s criminal record;

98           “(4) Examples of additional information that the applicant, registrant, or person  
99 certified may produce to demonstrate his or her rehabilitation and fitness; and

100           “(5) Information about the right to request a hearing under section 519 of this  
101 subchapter and the process for making this request.

102           “(g) After receiving the notice of potential denial, suspension, or revocation under  
103 subsection (f) of this section, the applicant, licensee, registrant, or person certified shall have 30  
104 business days to respond. The board regulating the health occupation shall make the final decision  
105 based on an individualized assessment of the information provided by the applicant, licensee,  
106 registrant, or person certified under subsection (f) of this section.

107           “(h) If the board regulating the health occupation denies, revokes, or suspends a license,  
108 registration, or certificate, solely or in part because of a criminal history, the board shall provide  
109 the applicant, licensee, registrant, or person certified in writing with the following:

110                   “(1) The offense that forms the basis for the denial, suspension, or revocation, and  
111 the rationale for deeming the conviction to be directly related; and

112                   “(2) The process for judicial review under section 520 of this subchapter.

113           “(i) Each board regulating a health occupation, before March 1 of each year, shall submit  
114 a report to the Mayor and the Council of its activities during the preceding fiscal year. The report  
115 shall include:

116                   “(1) The total number of applications received for each type of license;

117                   “(2) The number of successful applications for each type of license;

118                   “(3) The total number of applicants from whom the board obtained criminal history  
119 information;

120                   “(4) The number of applicants from whom the board obtained criminal history  
121 information that were successful in obtaining licenses;

122                   “(5) The number of notices of intent to deny, suspend, or revoke issued;

123                   “(6) The number of hearings following a notice of intent to deny, suspend, or  
124 revoke; and

125                   “(7) A statement on the board’s efforts to facilitate equal access to licenses for  
126 applicants with a criminal history, in light of the District’s public policy to promote employment  
127 opportunities for people with prior contact with the criminal justice system.”.

128           Sec. 3. Subchapter I-B of Chapter 28 of Title 47 of the District of Columbia Official Code  
129 is amended as follows:

130 (a) Section 47-2853.12(a)(1) is repealed.

131 (b) A new section 47-2853.12a is added to read as follows:

132 “§ 47-2853.12a. Criminal history inquiries.

133 “(a) The board regulating the non-health related occupation shall not inquire into the  
134 criminal history of an applicant on the application for a license under this subchapter.

135 “(b) The board regulating the non-health related occupation shall not inquire into or  
136 consider the criminal history of an applicant until after an applicant is found to be otherwise  
137 qualified for the license under subsection (a) of this section.

138 “(c) The board regulating the non-health related occupation shall not at any time consider,  
139 use, or disseminate the following information in connection with an application for a license:

140 “(1) An arrest that did not result in a conviction;

141 “(2) A criminal accusation made against the applicant that is not then pending or  
142 did not result in a conviction;

143 “(3) A conviction that has been dismissed through a deferred sentencing agreement  
144 or otherwise;

145 “(4) A conviction that has been sealed, expunged, vacated, or pardoned;

146 “(5) A juvenile adjudication; and

147 “(6) A conviction that is not directly related to the occupation for which a license  
148 is being sought, as determined under subsection (d) of this section.

149 “(d) The board regulating the non-health related occupation must consider the following  
150 factors to determine whether a conviction is directly related to the occupation for which the license  
151 is sought:

152                   “(1) The District’s legitimate interest in equal access to employment for individuals  
153 who have had past contact with the criminal justice system;

154                   “(2) Whether the elements of the offense or offenses are directly related to the  
155 specific duties and responsibilities of the occupation;

156                   “(3) Whether the occupation for which the license is sought offers the opportunity  
157 for the same or a similar offense to occur; and

158                   “(4) Any information produced by the applicant concerning his or her rehabilitation  
159 and fitness, including:

160                               “(A) Evidence showing that at least one year has elapsed since release from  
161 any correctional institution without subsequent conviction of a crime;

162                               “(B) Evidence showing compliance with all terms and conditions of  
163 probation, supervised release, and parole;

164                               “(C) Circumstances relative to the offense, including mitigating  
165 circumstances;

166                               “(D) Age of the applicant at the time the offense was committed;

167                               “(E) Length of time that has elapsed since the occurrence of the offense;

168                               “(F) Evidence of work history, particularly any training or work experience  
169 related to the occupation in question; and

170                               “(G) Letters of reference.

171                   “(e) After an applicant is found to be otherwise qualified for the license under this  
172 subchapter, the board regulating the non-health related occupation may consider an applicant’s  
173 criminal history, excluding any information prohibited by subsection (c) of this section, which the



174 board finds pursuant to subsection (d) of this section to be directly related to the occupation for  
175 which the license is sought.”.

176 (c) Section 47-2853.17 is amended as follows:

177 (1) Subsection (a)(5) is amended to read as follows:

178 “(5) Has been convicted of a crime into which the board regulating the non-health  
179 related occupation is permitted to inquire and consider under § 47-2853.12a.”.

180 (2) Subsection (c-1) is repealed.

181 (3) Subsection (c-2) is amended to read as follows:

182 “(c-2) If the board regulating the non-health related occupation intends to deny, suspend,  
183 or revoke a license, registration, or certificate because of a criminal history, the board regulating  
184 the non-health related occupation shall notify the applicant, licensee, registrant, or person certified  
185 in writing prior to a final decision with the following:

186 “(1) The offense that forms the basis for the potential denial, suspension, or  
187 revocation, and the rationale for deeming the offense directly related;

188 “(2) A copy of the criminal record on which the board relies;

189 “(3) A statement that the applicant, registrant, or person certified may provide  
190 evidence demonstrating inaccuracies within the applicant’s criminal record;

191 “(4) Examples of additional information that the applicant, registrant, or person  
192 certified may produce to demonstrate his or her rehabilitation and fitness; and

193 “(5) Information about the right to request a hearing under § 47-2853.22 and the  
194 process for making this request.”.

195 (4) New subsections (c-3), (c-4), and (c-5) are added to read:

196           “(c-3) After receiving the notice of potential denial, suspension, or revocation under  
197 subsection (c-2) of this section, the applicant, licensee, registrant, or person certified shall have 30  
198 business days to respond. The board regulating the non-health related occupation shall make the  
199 final decision based on an individualized assessment of the information provided by the applicant,  
200 licensee, registrant, or person certified under subsection (c-2) of this section.

201           “(c-4) If the board regulating the non-health related occupation denies, suspends, or  
202 revokes a license, registration, or certificate because of a criminal history, the board shall provide  
203 the applicant, licensee, registrant, or person certified in writing with the following:

204                   “(1) The offense that forms the basis for the denial, suspension, or revocation, and  
205 the rationale for deeming the conviction to be directly related; and

206                   “(2) The process for judicial review under § 47-2853.23.

207           “(c-5) Each board regulating a non-health related occupation, before March 1 of each year,  
208 shall submit a report to the Mayor and the Council of its activities during the preceding fiscal year.

209 The report shall include:

210                   “(1) The total number of applications received for each type of license;

211                   “(2) The number of successful applications for each type of license;

212                   “(3) The total number of applicants from whom the board obtained criminal history  
213 information;

214                   “(4) The number of applicants from whom the board obtained criminal history  
215 information that were successful in obtaining licenses;

216                   “(5) The number of notices of intent to deny, suspend, or revoke issued;

217                   “(6) The number of hearings following a notice of intent to deny, suspend, or  
218 revoke; and

219                   “(7) A statement on the board’s efforts to facilitate equal access to licenses for  
220 applicants with a criminal history, in light of the District’s public policy to promote employment  
221 opportunities for people with prior contact with the criminal justice system.”.

222                   Sec. 4. Fiscal impact statement.

223                   The Council adopts the fiscal impact statement in the committee report as the fiscal impact  
224 statement required by section 4a of the General Legislative Procedures Act of 1975, approved  
225 October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

226                   Sec. 5. Effective date.

227                   This act shall take effect following approval by the Mayor (or in the event of veto by the  
228 Mayor, action by the Council to override the veto), a 30-day period of congressional review as  
229 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24,  
230 1973 (87 Stat. 813; D.C. Official Code §1-206.02(c)(1)), and publication in the District of  
231 Columbia Register.